



(via Electronic Delivery)

December 6, 2010

Ms. Marlene H. Dortch
Federal Communications Commission
The Portals, TW-A325
445 12th Street SW
Washington, DC 20554

**Re: Notice of *Ex Parte* Presentation
GN Docket 09-191,
WC Docket No. 07-52**

Dear Ms. Dortch:

On December 3, Kristen Riccard (on behalf of the Association of Research Libraries), Corey Williams and Larra Clark (on behalf of the American Library Association), Steve Worona (on behalf of EDUCAUSE) and the undersigned (on behalf of all three organizations), met with Eddie Lazarus to discuss the pending “net neutrality” order.

We emphasized the following points:

Higher education and libraries are very supportive of the efforts to preserve an open Internet. Libraries and higher education are prolific generators of content and are constant users of the Internet for education, distance learning, access to e-government services, job-training services, and research, etc. Our community has developed a wide range of mobile applications, and research tools so that students, teachers, librarians and library patrons can obtain web-based information no matter where they are located. A few key data points:

- a. 80% of college students live off-campus. Net Neutrality is vitally important for these students to receive the same quality of access to web-based information as on-campus students;
- b. 97% of two-year colleges have online distance education programs, which depend on an open Internet;
- c. 99% of public libraries provide patrons with access to the Internet at no charge; in 73% of communities, public libraries are the only provider of such access (82% in rural communities).

We want to make sure that the proposed Net Neutrality Order contains sufficient protections for library and higher education services made available to the public. We urged the Commission to address the following issues:



1. The definition Broadband Internet Access Service should not be limited to “consumer” retail services. If the word “consumer” is defined as a “residential” consumer, then libraries and higher education would not be protected by the proposed net neutrality rules and policies. The limitation to “consumer” should be dropped. (We agree with limiting the definition to “retail” services).
2. We believe “paid prioritization” should be banned altogether. Our concern is that entertainment (and perhaps for-profit education) can afford to pay for prioritized access, but non-profit educational institutions and libraries cannot. We support the non-discrimination principle and suggest that paid prioritization should be prohibited altogether.
3. Wireless services should be treated the same as wireline services. Wireless services will be the primary mode of Internet access in the near future, and libraries and higher education are increasingly developing and making available a variety of wireless applications. There is no defensible reason to apply different rules for different technologies.
4. The definition of broadband Internet Access Service should not be limited to providers serving “all or substantially all Internet end points.” This could be a loophole that allows a broadband provider to construct a service limited to a subset of Internet access points as a way to evade net neutrality protections. We prefer the broader definition of broadband Internet Access Service that was contained in the FCC’s NPRM from last October.

Sincerely,

John Windhausen, Jr.

President

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